UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,281	10/13/2000	Frederick J. Oko JR.		9490

7590 01/04/2005

Roberts Abokhair & Mardula LLC
11800 SunriseValley Drive Suite 1000
Reston, VA 20191-5302

EXAMINER	
WON, MICHAEL YOUNG	
ART UNIT	**PAPER NUMBER**
2155	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/688,281	OKO ET AL.	
	Examiner	Art Unit	
	Michael Y Won	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1, 7, 12, 13, 15 and 16 have been amended and new claims 28-33 have been added.

2. Claims 1-33 have been examined and are pending with this action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-13, 28-30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson et al. (US 6,457,045 B1) in view of Goldschlag et al. (US 6,108,644 A) and Bowcutt et al. (US 6,308,328 B1).

As per claim 1, Hanson teaches a method (see title) for influencing dynamic community shared elements of content programming comprising: a plurality of participants (see col.1, lines 41-45) obtaining electronic votes that they may later cast (see col.1, lines 52-59); a polling server polling the plurality of participants over a network for their opinion concerning the content of programming (see col.2, lines 43-51 and col.13, lines 9-14); the plurality of participants casting their respective electronic

votes concerning the content of programming via the network (see col.2, lines 36-40); the polling server receiving the electronic votes of the participants, tallying the electronic votes and reporting those results to a content server (see col.2, lines 57-63; col.3, lines 4-6; col.4, lines 28-31; and col.16, lines 64-66); and the content server receiving the votes and retrieving content based upon the opinion expressed by a majority of electronic votes (see col.2, lines 57-63); and delivering the retrieved content to the participant (see col.2, lines 28-30 and col.14, line 63-col.15, line 3).

Hanson does not explicitly teach wherein the electronic votes are obtained independent of a poll. Goldschlag teach wherein the electronic votes are obtained independent of a poll (see col.4, lines 44-56 and col.10 lines 53-58: "certificate"). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Goldschlag within the method of Hanson by implementing independent poll and electronic votes within the method for influencing dynamic community shared elements because Goldschlag teaches that such an implementation protects the privacy of one party (customer) from another (vendor) (see col.1, lines 12-18). Furthermore, Hanson teaches that the invention is applicable in the choice of "purchase selection and purchase authorization" as is the utility for the teachings of Goldschlag.

Hanson does not explicitly teach that the polling is done periodically. Bowcutt teaches of polling periodically (see col.19, lines 16-20). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Bowcutt within the system of Hanson by implementing periodically polling

within the method of influencing dynamic community shared elements of content programming because higher polling frequency results in more accurate statistics and Bowcutt teaches that some data are requested more frequently than others during a session, thus periodic polling obtains greater and more accurate results.

As per claim 2, Hanson further teaches wherein the content is selected from the group consisting of audio, video, on-line games and text (see col.2, line 64 to col.3, line 4).

As per claim 3, Hanson further teaches wherein the content is created in real time (see col.18, lines 15-17).

As per claim 4, Hanson further wherein the content is stored content (see col.2, lines 35-36).

As per claim 5, Hanson further teaches wherein obtaining electronic votes comprises the participants purchasing the electronic votes over the network (implicit: see col.2, line 64 to col.3, line 3).

As per claim 6, Hanson further teaches wherein the obtaining electronic votes comprise, the participants being given the electronic votes (see col.2, lines 46-48).

As per claim 7 and 22, Hanson further teaches wherein the obtaining electronic votes comprises the participants purchasing electronic votes of differing values per vote over the network (implicit: see col.2, line 64 to col.3, line 3).

As per claim 8, Hanson teaches of further comprising the polling server providing the results of the electronic votes cast by the participants over the network (see col.16, lines 64-66 and col.20, lines 3-6).

As per claim 9, Hanson teaches of further comprising the plurality of participants forming sub-communities of participants for voting purposes (see title: "group").

As per claim 10, Hanson teaches of further comprising the sub-communities pre-voting over the network to determine the direction of the sub-communities voting (see col.1, lines 42-45).

As per claim 11, Hanson teaches of further comprising the polling server reporting to the sub-community the results of the sub-community's voting over the network (see col.16, lines 64-66; col.18, lines 15-17; and col.20, lines 3-6).

As per claim 12, Hanson further teaches wherein the network is the Internet (see col.3, lines 8-10).

As per claim 13, Hanson does not explicitly teach wherein the network is a cable TV network. Bowcutt teaches of a cable TV network (see title). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Bowcutt within the system of Hanson by implementing the a cable television network within the method and system of influencing dynamic community shared elements of content programming because Bowcutt teaches that such polling for statistics gathering accounts for efficient and complete network management.

As per claim 28, Hanson further teaches wherein the plurality of participants casting their respective electronic votes comprises the plurality of participants casting their respective votes of differing value per vote (implicit: see col.2, line 64 to col.3, line 3: "purchase selection"-purchasing items have different monetary value).

As per claims 29 and 30, Hanson, Goldschlag and Bowcutt do not explicitly teach wherein the plurality of participants obtaining electronic votes comprises the plurality of participants obtaining electronic votes before and after (respectively) receipt of the poll from the polling server. However whether the electronic vote is obtained before or after does not functionally interrelate with the useful acts, structure, or properties of the claimed invention since the casting step would not be performed without the existence of both the electronic vote and the poll. Therefore it would have been obvious to a person or ordinary skill in the art at the time the invention was made to employ and order of receipt of electronic vote and the poll because such subjective limitation does not functionally interrelate with the useful acts, structure, or properties of the claimed invention and will not serve as a limitation. See *In re Gulack*, 217 USPQ 401 (CAFC 1983), *Ex parte Carver*, 227 USPQ 465 (BdPatApp&Int 1985) and *In re Lowery*, 32 USPQ2d 1031 (CAFC 1994)

As per claim 33, Hanson teaches system (see title) for making choices by a group of participants (see abstract) comprising: a participant device connected to a network (see Fig.1), wherein the participant device is adapted to: receive a poll from a polling server presenting the participant an opportunity to select a choice from a group of choices (see col.2, lines 43-51 and col.13, lines 9-14); obtain an electronic vote for a participant account associated with a participant, wherein the vote may cast at a later time (see col.1, lines 52-59); cast the electronic vote to express the selection made (see col.1, lines 52-59); and the polling server adapted to: receive the electronic vote from the participant device; tally the electronic vote from other participant devices (see col.2,

lines 57-63; col.3, lines 4-6; col.4, lines 28-31; and col.16, lines 64-66); and report a result to a selection server (implicit: see col.23, lines 60-63); and the selection server adapted to: receive the result from the polling server (implicit: see col.23, lines 60-63); retrieve a selected choice from the group of choices based upon the result (see col.2, lines 57-63); and deliver the selected choice to the participant device (see col.2, lines 28-30 and col.14, line 63-col.15, line 3).

Hanson does not explicitly teach wherein the electronic votes are obtained independent of the opportunity to select the choice. Goldschlag teach wherein the electronic votes are obtained independent of the opportunity to select the choice (see col.4, lines 44-56 and col.10 lines 53-58: "certificate"). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Goldschlag within the method of Hanson by implementing electronic votes independent of the opportunity to select a choice within the method for influencing dynamic community shared elements because Goldschlag teaches that such an implementation protects the privacy of one party (customer) from another (vendor) (see col.1, lines 12-18). Furthermore, Hanson teaches that the invention is applicable in the choice of "purchase selection and purchase authorization" as is the utility for the teachings of Goldschlag.

Hanson does not explicitly teach that the polling the participant device over the network to provide the opportunity is done periodically. Bowcutt teaches of periodically polling the participant device over the network to provide the opportunity (see col.19, lines 16-20). It would have been obvious to a person of ordinary skill in the art at the

time the invention was made to employ the teachings of Bowcutt within the system of Hanson by implementing periodically polling the participant device over the network to provide the opportunity within the method of influencing dynamic community shared elements of content programming because higher polling frequency results in more accurate statistics and Bowcutt teaches that some data are requested more frequently than others during a session, thus periodic polling obtains greater and more accurate results.

4. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson et al. (US 6457045 B1), Goldschlag et al. (US 6,108,644 A) and Bowcutt et al. (US 6308328 B1), further in view of Anderson et al. (US 4290141 A).

As per claims 14 and 15, Hanson, Goldschlag and Bowcutt do not explicitly teach wherein the network is an RF network or that the network comprises a wired network and a wireless network (inherent), and wherein the participants vote via the wireless network. Anderson teaches of an RF network (see col.6, lines 31-34) and wherein the participants vote via the wireless network (see abstract). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Anderson within the system of Hanson, Goldschlag and Bowcutt by implementing an RF network and wherein the participants vote via the wireless network within the method and system of influencing dynamic community shared elements of content programming because RF allows for wireless communication in which votes may be cast by mobile devices increasing functionality and use.

5. Claims 16-27, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson et al. (US 6457045 B1) in view of Goldschlag et al. (US 6,108,644 A).

As per claim 16, Hanson teaches a system (see title) for influencing dynamic community shared elements of content programming comprising: a plurality of participant devices each associated with a participant connected to a network (see Fig.1 and col.5, lines 62-64), the participant devices further comprising instructions for obtaining and casting electronic votes (see col.1, lines 52-59); a transaction server connected to the network further comprising instructions for receiving requests from the participant devices to obtain electronic votes, and instructions for delivering electronic votes to the participant devices over the network (see col.2, lines 57-63 and col.26, line 64 to col.27, line 13); the polling server connected to the network for receiving the electronic votes from the participant devices in response to polls sent by the polling server (see col.27, lines 14-16); the polling server further comprising instructions for receiving and tallying the electronic votes received from the participant devices, and reporting the tally (see col.27, lines 17-20 and col.16, lines 64-66); and a content server connected to the polling server for receiving the tally of the electronic votes (see col.2, lines 57-63; col.3, lines 4-6; col.4, lines 28-31; and col.16, lines 64-66), the content server further comprising instructions for modifying content served to the participant devices in response to the tally of electronic votes (see col.2, lines 57-63 and col.5, lines 1-4).

Hanson does not explicitly teach wherein the electronic votes are obtained independent of a poll. Goldschlag teach wherein the electronic votes are obtained independent of a poll (see col.4, lines 44-56 and col.10 lines 53-58: "certificate"). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Goldschlag within the method of Hanson by implementing independent poll and electronic votes within the method for influencing dynamic community shared elements because Goldschlag teaches that such an implementation protects the privacy of one party (customer) from another (vendor) (see col.1, lines 12-18). Furthermore, Hanson teaches that the invention is applicable in the choice of "purchase selection and purchase authorization" as is the utility for the teachings of Goldschlag.

As per claim 17, Hanson further teaches wherein the content is selected from the group consisting of audio, video, online games and text (see claim 2 rejection above).

As per claim 18, Hanson further teaches wherein the content is created in real time (see claim 3 rejection above).

As per claim 19, Hanson further teaches wherein the content is stored content (see claim 4 rejection above).

As per claim 20, Hanson further teaches wherein the electronic votes are purchased by the participant via the participant device, by the transaction server over the network (see claim 5 rejection above).

As per claim 21, Hanson further teaches wherein the electronic votes, are given to the participant devices by the transaction server over the network (see claim 6 rejection above).

As per claim 22, Hanson further teaches wherein the electronic votes comprise votes of different values (see claim 7 rejection above).

As per claim 23, Hanson further teaches wherein participant devices further comprise instructions for casting the electronic votes in response to a poll served by the polling server (see claim 8 rejection above).

As per claim 24, Hanson further teaches wherein the polling server further comprises instructions for reporting the results of the voting to the participant devices over the network (see claim 11 rejection above).

As per claim 25, Hanson further teaches wherein the polling server further comprises instructions for receiving requests from participant devices to form a sub-community of participant devices (see claim 9 rejection above).

As per claim 26, Hanson further teaches wherein the polling server further comprises instructions for permitting a pre-vote of the sub-community on a given poll (see claim 10 rejection above).

As per claim 27, Hanson further teaches wherein the polling server further comprises instructions for reporting the sub-community vote to the participant devices of the sub-community (see claim 11 rejection above).

As per claim 31, Hanson teaches a method for influencing dynamic community shared elements of content programming comprising: obtaining via a network (see

Fig.1) an electronic vote for a participant account, wherein the vote may be cast at a later time (see col.1, lines 52-59); issuing the poll from a polling server to a participant device via the network for an opinion concerning the content of a program (see col.2, lines 43-51 and col.13, lines 9-14); casting the electronic vote obtained for the participant account from the participant device to express the opinion concerning the content of the program via the network (see col.2, lines 36-40); receiving at the polling server the electronic vote from the participant device, tallying the electronic vote, and reporting a result to a content server (see col.2, lines 57-63; col.3, lines 4-6; col.4, lines 28-31; and col.16, lines 64-66), and receiving at the content server the result and retrieving content based upon the result (see col.2, lines 28-30 and col.14, line 63-col.15, line 3).

Hanson does not explicitly teach wherein the electronic votes are obtained independent of a poll. Goldschlag teach wherein the electronic votes are obtained independent of a poll (see col.4, lines 44-56 and col.10 lines 53-58: "certificate"). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Goldschlag within the method of Hanson by implementing independent poll and electronic votes within the method for influencing dynamic community shared elements because Goldschlag teaches that such an implementation protects the privacy of one party (customer) from another (vendor) (see col.1, lines 12-18). Furthermore, Hanson teaches that the invention is applicable in the choice of "purchase selection and purchase authorization" as is the utility for the teachings of Goldschlag.

As per claim 32, Hanson teaches a method for making choices by a group of participants comprising: obtaining via a network (see Fig.1) an electronic vote for a participant account at a participant device, wherein the vote may later be cast (see col.1, lines 52-59); presenting the participant device the opportunity to select a choice from a group of choices (see col.2, lines 36-46); casting the electronic vote obtained for the participant account from the participant device to express the choice made (see col.1, lines 52-59); receiving the electronic vote from the participant device, tallying the electronic vote, and reporting a result to a content server (see col.2, lines 57-63; col.3, lines 4-6; col.4, lines 28-31; and col.16, lines 64-66); and retrieving a selected choice from the group of choices based upon the result (see col.2, lines 28-30 and col.14, line 63-col.15, line 3).

Hanson does not explicitly teach wherein the electronic votes are obtained independent of the opportunity to select the choice. Goldschlag teach wherein the electronic votes are obtained independent of the opportunity to select the choice (see col.4, lines 44-56 and col.10 lines 53-58: "certificate"). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the teachings of Goldschlag within the method of Hanson by implementing electronic votes independent of the opportunity to select a choice within the method for influencing dynamic community shared elements because Goldschlag teaches that such an implementation protects the privacy of one party (customer) from another (vendor) (see col.1, lines 12-18). Furthermore, Hanson teaches that the invention is applicable in the

choice of "purchase selection and purchase authorization" as is the utility for the teachings of Goldschlag.

Response to Arguments

6. In response to the argument regarding the amended limitations of claims 1 and 16, particularly "wherein the electronic votes are obtained independent of a poll", have been considered but are moot in view of the new ground(s) of rejection.

In response to the argument regarding claim 1, particularly "a polling server periodically polling a plurality of participants over a network for their opinion concerning the content of programming", Hanson clearly teaches this limitation in col.13, lines 9-14, in addition to "presenting a choice". Hanson also teaches "the content server receiving the votes and retrieving content based upon the opinion expressed by a majority of electronic votes" in col.2, lines 57-63, "and delivering the retrieved content to the participant" in col.2, lines 28-30 and col.14, line 63-col.15, line 3.

In response to the argument of claims 1 and 16 regarding the definition of "content", content is generally any information provided in a web page as opposed to it's design and layout such as it's textual or graphical information. As such Hanson teaches that "content includes dynamic information identifying changes that have occurred since the message was last viewed by the viewing participant" to track "the opinions, suggestions, or other comments made" (see col.13, lines 9-14). Clearly, the "content" taught by Hanson is based upon he opinion expressed by the majority of electronic

votes since the contents are updated dynamically (most current). If the applicant is arguing that the content is a commercial, show, movie or the like, then the claims must be amended accordingly. During examination the claims must be given their broadest interpretation. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).

Furthermore, Hanson clearly teaches of a mechanism for delivering the program content to the participant (see col.2, lines 46-57).

Therefore, claims 1 and 16 and all the dependent claims remain rejected for the reasons above.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Y Won whose telephone number is 571-272-3993. The examiner can normally be reached on M-Th: 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Won

Bharat Barot.

BHARAT BAROT
PRIMARY EXAMINER

December 16, 2004